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10/809,165	03/25/2004	Pekka Kuore	KOLS 101PA	6814
76385 7590 06/09/2010 Hollingsworth & Funk 8500 Normandale Lake Blvd., Suite 320 Minneapolis, MN 55437				
EXAMINER				
PEREZ, JULIO R				
ART UNIT		PAPER NUMBER		
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/809,165

Applicant(s)

KUURE ET AL

Examiner

JULIO PEREZ

Art Unit

2617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 March 2010.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1, 3-9, 11-17, 19-27, 29 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/GS/US)
4) ☐ Interview Summary (PTO-413)
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____
Paper No(s)/Mail Date _____

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims 1-3, 6-11, 14-19 and 22-28 have been considered but are moot in view of the new ground(s) of rejection.

Allowable Subject Matter

2. The indicated allowability of claims 4, 5, 13, 20-21 is withdrawn in view of the newly discovered reference(s) to Foladare et al (US 5,982,774). Rejections based on the newly cited reference(s) follow.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 19-24 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 19-24 recite "the **apparatus**" in lines 1-2. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1,3-9,11-17, 19-27, 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Na et al (7,031,746) in view of Foladare et al (US82,774).

Regarding claim 1, Na discloses a method comprising:

performing data streaming communication with a server connected to a network infrastructure providing a radio interface connection, wherein the server is external to the network infrastructure (col. 2, lines 16-32, and 60-65, a transmitted signal from a satellite, i.e., it reads as a sever, is transmitted with data streaming signal; i.e., video on demand, which corresponds to data streaming, and hence is sent for a depository or server, which serves as a sever, or a remote site, and thus must be communicating via a terrestrial network);

receiving a communication connection request message from the network infrastructure (col. 5, lines 34-48, describe the system receiving a voice call (phone call) while the system is processing multimedia signals, streaming; thus, it reads on receiving request for a communication connection to the terminal);

indicating reception of the communication connection request on a user interface (col. 5, lines 49-61, shows the user able to take the call with his answering, thus, it reads on indicating to the user of the receiving call);

receiving a first mode change command via the user interface (col. 5, lines 49-61, describes the user able to answer the call, thus able to change the mode to answering if he/she wishes while the multimedia is in progress; therefore, it reads on first mode change command generated by the user);

generating transmission suspension message on the basis of the first mode change command, the transmission suspension message to suspend transmission of data stream (col. 5, lines 34-61; col. 6, lines 6-17, describe the system able to discontinue processing of multimedia or part of the audio or the video if decided to answer the incoming call; it interrupts the media from receiving while in a call);

and accepting on the basis of the first mode change command (col. 5, lines 34-61; col. 7, lines 29-45, shows the call being accepted by the user; thus, accepting the communication connection).

Although Na discloses suspension of data streaming and communication of a call to the user, Na does not explicitly disclose is transmission suspension message on the basis on the mode change command informing the server to suspend transmission of the data stream with transmitting message to suspend data to the server. Foladare, however, recites the user with an option of putting the Internet call on hold, thus, it suspends transmission of data form the server, and taking the phone call entering while the user was receiving Internet data (Figure 3, #'s 209, 211, 215; col. 3, lines 13-51).

Na and Griffin are analogous art because they are from a similar field of endeavor in downloading data stream and receiving voice calls. Thus, it would have obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Na with the mechanism of stopping the downloading of data stream from a server while receiving a call taught by Foladare in order to accommodate the user of using the communication unit for a conversation while the media content delivery is on hold and, in addition, to use resources more efficiently.

Regarding claim 3, the combination discloses claim 1, further including:
generating a communication connection acceptance message on the basis of the first mode change command (Foladare, Figure 3, # 209, subscriber accepts call); requesting for suspension of the data streaming communication on the basis of the communication connection acceptance message (Foladare, Figure 3, # 211, Internet communication is on hold); and transmitting the communication connection acceptance message to the network infrastructure (Foladare, Figure 3, #'s 213, 213-214, connection with caller via network office).

Regarding claim 4, the combination discloses claim 1, further including:
accepting the communication connection on the basis of the transmission suspension message (Foladare, Figure 3, #'s 209-214, describes user accepting call after putting internet connection on hold).

Regarding claim 5, the combination discloses claim 1, further including:
generating a connection suspension message on the basis of the first mode change command (Foladare, Figure 3, # 211, Internet communication is on hold), the connection suspension message requesting the network infrastructure to release a radio connection providing the data streaming communication (Foladare, col. 3, lines 36-51); and transmitting the connection suspension message to the network infrastructure (col. 3, lines 36-48).

Regarding claims 6, the combination discloses claim 1, further including:
receiving a second mode change command generated by the user interface (Na, col. 5, lines 34-48, describes the system receiving a voice call and resuming streaming of data

at later time); releasing the communication connection on the basis of the second mode change command Na, col. 5, lines 34-48, describes the system receiving a voice call and resuming streaming of data at later time); and requesting for continuation of the data streaming communication on the basis of the second mode change command (Na, col. 5, lines 34-48; 49, describes the system receiving a voice call and resuming streaming of data at later time).

Regarding claim 7, the combination discloses claim 1, further including: receiving a communication connection release message from the network infrastructure Na, (col. 5, lines 34-48, describes the system resuming streaming of data at later time); indicating the reception of the communication connection release message to the user; receiving in the mobile terminal a third mode change command generated by the user (Na, col. 5, lines 34-48); requesting for continuation of the data streaming communication on the basis of the third mode change command (Na, col. 5, lines 34-48, describes the system receiving a voice call and resuming streaming of data at later time).

Regarding claim 8, the combination discloses claim 1, further including: receiving a communication connection release message from the network infrastructure Na, (col. 5, lines 34-48, describes the system resuming streaming of data at later time); indicating the reception of the communication connection release message to the user; receiving in the mobile terminal a third mode change command generated by the user (Na, col. 5, lines 34-48); requesting for continuation of the data streaming communication on the basis of the third mode change command (Na, col. 5, lines 34-48, describes the system receiving a voice call and resuming streaming of data at later time).

Regarding claim 26, the combination discloses of claim 1, further comprising: performing the data streaming communication by communicating between the mobile terminal and the server on an application level infrastructure (Griffin, pars. 27-28, 33); and requesting for the suspension of the data streaming communication from the server on the application level on the basis of the first mode change command infrastructure (Foladare, Figure 3, #'s 209, 211, 215; col. 3., lines 13-51).

Claim 9 contains subject matter similar to claim 1, and thus, is rejected under similar rationale.

Claim 11 contains subject matter similar to claim 3, and thus, is rejected under similar rationale.

Claim 12 contains subject matter similar to claim 4, and thus, is rejected under similar rationale.

Claim 13 contains subject matter similar to claim 5, and thus, is rejected under similar rationale.

Claim 14 contains subject matter similar to claim 6, and thus, is rejected under similar rationale.

Claim 15 contains subject matter similar to claim 7, and thus, is rejected under similar rationale.

Claim 16 contains subject matter similar to claim 8, and thus, is rejected under similar rationale.

Regarding claim 27, the combination discloses of claim 9, wherein the communicating unit is configured to perform the data streaming communication by

communicating between the mobile terminal and the server on an application level, and the data streaming control unit is configured to request for the suspension of the data streaming communication from the server on the application level on the basis of the first mode change command (Foladare, Figure 3, #'s 209, 211, 215; col. 3., lines 13-51).

Claim 17 contains subject matter similar to claim 1, and thus, is rejected under similar rationale.

Claim 19 contains subject matter similar to claim 11, and thus, is rejected under similar rationale.

Claim 20 contains subject matter similar to claim 12, and thus, is rejected under similar rationale.

Claim 21 contains subject matter similar to claim 13, and thus, is rejected under similar rationale.

Claim 22 contains subject matter similar to claim 14, and thus, is rejected under similar rationale.

Claim 23 contains subject matter similar to claim 15, and thus, is rejected under similar rationale.

Claim 24 contains subject matter similar to claim 16, and thus, is rejected under similar rationale.

Claim 25 contains subject matter similar to claim 1, and thus, is rejected under similar rationale.

Claim 29 contains subject matter similar to claim 21, and thus, is rejected under similar rationale.

Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to JULIO PEREZ whose telephone number is (571)272-7846. The examiner can normally be reached on 10-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, PATRICK EDOUARD can be reached on (571)272-7603. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

6/4/2010

/J. P./
Examiner, Art Unit 2617

/Patrick N. Edouard/
Supervisory Patent Examiner, Art Unit 2617